



General Assembly

Distr.: General
16 June 2016

Original: English

Seventy-first session

Item 113 (d) of the preliminary list*

**Elections to fill vacancies in subsidiary organs and
other elections: election of fourteen members of the
Human Rights Council**

Letter dated 31 May 2016 from the Permanent Representative of Tunisia to the United Nations addressed to the President of the General Assembly

I have the honour to recall that Tunisia has decided to present its candidature to the Human Rights Council for the term 2017-2019 at elections to be held during the seventy-first session of the General Assembly.

I enclose herewith a copy of the voluntary pledges and commitments of the Government of Tunisia for the promotion and protection of human rights, in accordance with General Assembly resolution 60/251 (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under item 113 (d) of the preliminary list.

(Signed) Mohamed Khaled Khiari
Ambassador
Permanent Representative

* A/71/50.



Annex to the letter dated 31 May 2016 from the Permanent Representative of Tunisia to the United Nations addressed to the President of the General Assembly

[Original: French]

Candidature of Tunisia to the Human Rights Council, 2017-2019

Voluntary pledges and commitments pursuant to General Assembly resolution 60/251

Tunisia has presented its candidature to the Human Rights Council for the period 2017-2019. Its candidature has the support of the Summit of Heads of State and Government of the African Union, expressed in January 2016, and of the Council of Foreign Ministers of the League of Arab States, expressed in September 2014.

With this decision, which follows on the revolution of 2011, Tunisia reiterates its abiding attachment to the values of human rights as contained in the Universal Declaration of Human Rights and the related conventions and protocols.

Since its revolution for freedom and dignity, which is now reflected in the motto of the Second Republic, Tunisia has undertaken to respect, promote and protect all human rights and basic freedoms in their universal, comprehensive and interdependent aspects, in accordance with conventions and international instruments.

The adoption of the new Constitution on 27 January 2014 and the democratic, free and transparent legislative and presidential elections that followed represent historic milestones for Tunisia, solemnizing its strong attachment to democracy and political pluralism.

I. A progressive and irreversible approach to human rights

The Tunisian approach to human rights, which is set forth in the new Constitution and imbued with the principles of the revolution, is based on the principles of the rule of law, consolidation of participatory democracy and strengthened human rights.

Having acceded to nearly all of the United Nations human rights instruments and to most of the optional protocols thereto, Tunisia has, since 2011, been overhauling its human rights legislation in order to align it with international norms and standards. This commitment attests not only to the centrality of these rights in national policy but also to the fundamental importance that Tunisia attaches to effective guarantees of their fulfilment.

Enshrinement in the new Constitution of the full range of values and human rights, in their accepted sense as universal and indivisible, reflects a proactive approach to reinforcing the system of human rights and fundamental freedoms and guaranteeing the appropriate conditions needed for their full and effective enjoyment. Moreover, the guarantee of inviolability of these rights under the Constitution, which elevates them to supra-constitutional status, is a significant step forward.

The whole of chapter II of the 2014 Constitution of Tunisia is dedicated to rights and freedoms such as equality, freedom of opinion, expression, thought, conscience, belief and information, the right to life, dignity and physical integrity, the prohibition against torture, the non-applicability of statutory limitations to the crime of torture, the right to access to information, the right to strike, the right to freedom of association, the right to establish political parties, the right to assembly and the right to engage in peaceful demonstrations. Second- and third-generation human rights such as the rights to health, social protection, work, education and culture and environmental rights also feature prominently in the new Constitution.

This policy direction has been backed up by the will to introduce new national mechanisms and institutions for the protection and promotion of human rights, such as the National Agency for the Prevention of Torture, the Constitutional Court and the Agency for Human Rights, whose framework was finalized in accordance with the Paris Principles, following a series of local and national consultations with various stakeholders, including civil society.

Thanks to resolute political will, this approach has made it possible to achieve genuine progress in the area of human rights in Tunisia, including civil and political rights as well as economic, social and cultural rights, earning recognition for Tunisia from United Nations bodies and the international community.

II. A commitment to cooperation with international human rights bodies

Significantly, the first legal instruments adopted in 2011 following the revolution gave new impetus to the accession by Tunisia to international human rights instruments, such as the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the International Covenant on Civil and Political Rights, the Rome Statute of the International Criminal Court and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Tunisia also took an important step in October 2011, when it withdrew all its reservations to the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child.

It has also worked to develop productive cooperation with United Nations human rights bodies, including through the election of several Tunisian experts to treaty bodies: the Human Rights Committee, the Committee on the Rights of the Child, the Committee against Torture and the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

This cooperation has been strengthened by the opening in Tunis of a country office of the Office of the United Nations High Commissioner for Human Rights, with a broad mandate, as well as representative offices of the Office of the United Nations High Commissioner for Refugees and a number of non-governmental organizations, such as the Arab Institute for Human Rights, Reporters Without Borders, Doctors Without Borders, Euro-Mediterranean Human Rights Network, World Organization against Torture, Amnesty International and Human Rights Watch.

In addition, and in support of the principles of interaction with and responsiveness to the United Nations human rights mechanisms, Tunisia has submitted periodic reports under the following conventions, which it has ratified:

- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: the third national report was considered by the Committee against Torture on 21 and 22 April 2016 in Geneva.
- The International Convention for the Protection of All Persons from Enforced Disappearance (September 2014): the initial report of Tunisia was considered by the Committee on Enforced Disappearances on 7 and 8 March 2016 in Geneva. In this context, Tunisia has taken steps under articles 31 and 32 of that Convention to recognize, once the constitutional procedure has been completed, the competence of the Committee to receive and consider complaints.
- The International Covenant on Economic, Social and Cultural Rights (report submitted in January 2015): consideration of the third national report by the Committee is planned for 22 and 23 September 2016.

In the same vein, a delegation of the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment made a visit to Tunisia from 12 to 14 April 2016.

On 22 May 2012, Tunisia submitted its second report for the universal periodic review, providing an overview of the human rights situation since 2008. A mid-term report was voluntarily submitted to the Human Rights Council in September 2014. The submission of the third report of Tunisia is planned for 2017.

As part of cooperation with the special procedures of the Human Rights Council, the Special Rapporteurs and the working groups made a dozen visits to Tunisia during the period 2011-2015 in response to a standing invitation extended by the Tunisian authorities to all mandate holders in February 2011. The Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights is planning another visit to Tunisia.

In addition to its ongoing cooperation with the United Nations human rights bodies and mechanisms, Tunisia has met its commitments by responding to and providing necessary clarifications on urgent appeals, complaints and communications.

This productive cooperation has enabled Tunisia to further bring its constitutional and legislative framework into line with existing international principles of human rights and fundamental freedoms. In that context, in February 2016 there was an amendment to the sections of the Penal Procedure Code on preventive detention, guaranteeing that a lawyer will be present during questioning for every defendant, and on the duration of police custody, which has been reduced from three days to 48 hours and may now be renewed only once (in criminal cases).

Tunisia has set up the following new bodies to oversee the protection of human rights and compliance with its international human rights commitments:

- The Ministry for Relations with Constitutional Bodies and for Civil Society and Human Rights, which is responsible, *inter alia*, for finalizing the

establishment of the independent constitutional bodies referred to in chapter VI of the Constitution, such as the Agency for Human Rights, the Agency for Sustainable Development and the Rights of Future Generations, the Agency for Audiovisual Communications and the Agency for Good Governance and Anti-Corruption Measures.

- The National Agency for the Prevention of Torture, established in accordance with article 17 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- The Agency for Truth and Dignity, established as part of the transitional justice framework to investigate human rights abuses committed since 1955, prosecute alleged perpetrators and compensate and rehabilitate victims.
- The National Commission for the Coordination, Preparation and Submission of Reports and Follow-up to Recommendations on Human Rights (treaty bodies, universal periodic review, Human Rights Council special procedures, regional mechanisms, etc.)

III. Commitments to the Human Rights Council

Tunisia, a founding member of the Human Rights Council (where it served as a member from 2006 to 2007), fully supports the principles and ideals of the Council and pledges, if elected to that body, to:

- Contribute to the achievement of the objectives set by the Council and of its mandate under resolution 60/251.
- Maintain open dialogue and constructive cooperation with the members and non-members of the Human Rights Council, while working to foster consensus among diverse partners to promote the cause of human rights.
- Contribute to all efforts and actions to promote human rights and achieve well-being and progress for humanity as a whole, which is a constant of Tunisian foreign policy.
- Work within the groups to which it belongs to strengthen the universal, comprehensive and interdependent nature of human values.
- Pay particular attention to the fundamental rights of people in the most vulnerable groups.
- Support the universal periodic review as a mechanism designed to promote respect for human rights worldwide.
- Continue to contribute to the normative efforts of the Council, particularly through its affiliation with various groups of main sponsors, including those sponsoring draft resolutions on civil society space (with Ireland), freedom of expression on the Internet (with Sweden) and the protection of journalists (with Austria).
- Continue, moreover, its tradition of co-sponsoring resolutions on human rights defenders; reprisals; the right to engage in peaceful demonstrations; torture; business and human rights; the right to development; violence against women; racism; and the rights of persons of African descent.

- Continue supporting, through regular statements in the Council and through various groups of friends and other unofficial groups, the special procedures of the Council, the integrity and independence of the Office of the High Commissioner for Human Rights, the International Criminal Court and the treaty body strengthening process co-facilitated by Tunisia in New York.
- Cooperate closely with the Office of the High Commissioner for Human Rights and actively support its work.

Moreover, Tunisia, which shares in the universal awareness of human rights and holds the advancement of humankind as its highest objective, reaffirms the need to work together in accordance with the relevant international instruments to adopt a common international vision aimed at combating the pervasive phenomena of violent extremism and terrorism, which are one cause of the worsening human rights situation in several regions of the world.



General Assembly

Distr.: General
16 June 2016
English
Original: Arabic/English/French/
Spanish

Seventy-first session
Item 79 of the preliminary list*
Diplomatic protection

Diplomatic protection

Comments and information received from Governments

Report of the Secretary-General

I. Introduction

1. The International Law Commission adopted the draft articles on diplomatic protection at its fifty-eighth session, in 2006.¹ In its resolution 61/35, the General Assembly took note of the draft articles as adopted by the Commission and invited Governments to submit comments concerning the Commission's recommendation that the Assembly elaborate a convention on the basis of the articles.² By its resolutions 62/67 and 65/27, the Assembly commended the articles on diplomatic protection presented by the Commission to the attention of Governments and invited them to submit any further comments concerning the recommendation by the Commission to elaborate a convention on the basis of the articles in writing to the Secretary-General. The Assembly examined, at its sixty-fifth session, in 2010, and sixty-eighth session, in 2013, within the framework of a working group of the Sixth Committee, in the light of the written comments of Governments,³ as well as views expressed in the debates held at the sixty-second, sixty-fifth and sixty-eighth sessions of the Assembly, the question of a convention on diplomatic protection, or any other appropriate action, on the basis of the above-mentioned articles.

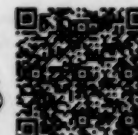
2. In its resolution 68/113, the General Assembly again recalled its resolution 62/67 and the decision of the International Law Commission to recommend to the Assembly the elaboration of a convention on the basis of the articles on diplomatic protection. It also emphasized the continuing importance of the codification and progressive development of international law, as referred to in Article 13, paragraph 1 (a), of the Charter of the United Nations, and noted that the subject of diplomatic protection

* A/71/50

¹ See A/61/10, para. 49.

² See A/62/118 and Add.1. The text of the articles was subsequently annexed to resolution 62/67.

³ See A/65/182 and Add.1 and A/68/113.



was of major importance in relations between States. The Assembly commended once again the articles on diplomatic protection to the attention of Governments and decided to include in the provisional agenda of its seventy-first session the item entitled "Diplomatic protection" and, within the framework of a working group of the Sixth Committee, in the light of the written comments of Governments, as well as views expressed in the debates held at the sixty-second, sixty-fifth and sixty-eighth sessions of the Assembly, to continue to examine the question of a convention on diplomatic protection, or any other appropriate action, on the basis of the articles and to identify any difference of opinion on the articles.

3. In the same resolution, the General Assembly invited Governments to submit in writing to the Secretary-General any further comments, including comments concerning the recommendation by the International Law Commission to elaborate a convention on the basis of the articles on diplomatic protection. By a note verbale dated 21 January 2014, the Secretary-General invited Governments to submit those comments no later than 1 June 2016. He reiterated that invitation by notes verbales dated 21 January and 18 December 2015.

4. As at 17 June 2016, the Secretary-General had received written comments from Australia, Austria, the Czech Republic, El Salvador, Qatar and Togo. Those comments are reproduced below, organized according to comments on any future action regarding the articles on diplomatic protection (sect. II) and on the articles (sect. III).

II. Comments on any future action regarding the articles on diplomatic protection

Australia

[Original: English]
[9 June 2016]

Australia has welcomed the adoption by the International Law Commission of the articles on diplomatic protection and the commentaries thereto. To the extent that the articles articulate important aspects of customary international law, they provide useful guidance to States and international bodies and are valuable in their current form.

We wish to take this opportunity to reiterate the points that Australia has made at Sixth Committee discussions on behalf of Australia, Canada and New Zealand during the sixty-fifth session of the General Assembly, in 2010.⁴ We do not believe that it would be appropriate to adopt a convention based on the articles at this time. We believe that the process of negotiating such a convention could undermine the influence and value of the articles by opening up debate on their contents.

The articles on diplomatic protection are closely bound to the articles on responsibility of States for internationally wrongful acts. This is recognized in the Commission's commentaries to the articles on diplomatic protection, which note that many of the principles contained in the articles on State responsibility are relevant to diplomatic protection, in particular, the provisions dealing with the legal

⁴ See A/C.6/65/SR.16.

consequences of an internationally wrongful act. In the absence of a clear consensus on the elaboration of a convention on the basis of the articles on State responsibility, it would be premature to begin negotiations on a convention on the basis of the articles on diplomatic protection.

In addition, aspects of the articles on diplomatic protection go beyond the understanding of Australia of customary international law relating to diplomatic protection. Article 8 on stateless persons and refugees is one example in which this is the case. The Commission's commentaries acknowledge that article 8 is "an exercise in progressive development of the law". Australia agrees that there is no established rule of customary international law that recognizes the ability of States to exercise diplomatic protection in respect of stateless persons or refugees. To the extent that the articles contain elements relating to the development of customary international law, and not simply its codification, there is unlikely to be international consensus on whether those elements should be made the subject of a convention.

Australia continues to consider the Commission's work on the articles to be valuable in clarifying and developing customary international law on diplomatic protection. We view the articles as serving a useful purpose in informing and helping to settle State practice in this important area over time.

Austria

[Original: English]

[1 June 2016]

Owing to the close connection between the articles on diplomatic protection and those on responsibility of States for internationally wrongful acts, the position of Austria with regard to the recommendation of the International Law Commission to elaborate a convention on diplomatic protection remains unchanged. Austria has already expressed its views in its statements before the Sixth Committee at the sixty-first, sixty-second and sixty-fifth sessions of the General Assembly and in written comments presented in 2010.⁵

Austria would prefer to wait and place this item on the agenda again after a few years in order to assess the possibility of taking the necessary steps towards the elaboration of a convention by convening an ad hoc committee, a preparatory committee or a codification conference.

Czech Republic

[Original: English]

[24 March 2016]

The written comments of the Czech Republic on the topic of diplomatic protection were presented to the Secretary-General in 2007⁶ and reiterated in 2010.⁷ Since that date, there have been no major developments requiring a change of position.

⁵ See A/C.6/61/SR.9, A/C.6/62/SR.10, A/C.6/65/SR.16 and A/65/182.

⁶ See A/62/118.

⁷ See A/65/182.

El Salvador

[Original: Spanish]
[31 May 2016]

The Republic of El Salvador considers that, while international law has evolved considerably over the past century, diplomatic protection has the merit of having developed out of the affirmation of the equality of States as a means of ensuring the recognition of and reparation for injuries to nationals of another State at a time when there was no other effective means of doing so.

Diplomatic protection now exists alongside other concepts, such as the law of State responsibility and the jurisdiction of international tribunals. However, John Dugard, one of the special rapporteurs appointed by the International Law Commission for this issue, has stressed its importance, stating that, "although individuals today enjoy more international remedies for the protection of their rights than ever before, diplomatic protection remains an important weapon in the arsenal of human rights protection".⁸

In view of the important protective function of diplomatic protection, the Republic of El Salvador considers that the articles could become a legally binding international instrument so long as the instrument is formulated in a manner that takes into account the need to strengthen the protection that States may provide to their nationals.

In sum, El Salvador supports embarking on the work necessary to adopt a binding international instrument that will improve the use of diplomatic protection, and it will continue to closely monitor progress in that regard during the next session.

Qatar

[Original: Arabic]
[24 February 2014]

Qatar has no objection to the recommendation of the International Law Commission on the drafting of a convention on the basis of the articles on diplomatic protection. In the case of the adoption of a convention by the General Assembly, it would be presented later on to States to sign or ratify in accordance with the established practice under their national legislation.

Togo

[Original: French]
[13 May 2016]

Analysis of the 19 articles on diplomatic protection shows that, in general, they reflect the current status of international practice and case law. They clearly lay down the main principles that should guide the effective exercise of diplomatic protection. In this regard, if the articles were to form the basis of a convention, they would undoubtedly constitute a significant codification and development of international law on diplomatic protection, alongside the many instruments governing diplomatic and consular relations that have already been adopted through

⁸ See *Yearbook of the International Law Commission, 2000*, vol. II, Part One (United Nations publication, Sales No. E.03.V.7 (Part 1)), p. 215, para. 32.

the Commission's efforts. Those instruments, in order of adoption, are: the Vienna Convention on Diplomatic Relations of 18 April 1961; the Vienna Convention on Consular Relations of 24 April 1963; the Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 18 March 1965; the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents of 14 December 1973; and the United Nations Convention on Jurisdictional Immunities of States and Their Property of 2 December 2004.

III. Comments on the articles on diplomatic protection

El Salvador

[Original: Spanish]

[31 May 2016]

A convention on this subject should establish a more direct link between article 2 (right to exercise diplomatic protection) and article 19 (recommended practice) in order to establish more specific guidance on the proper exercise of diplomatic protection.

Togo

[Original: French]

[13 May 2016]

While Togo considers the articles to be useful, it should be noted that the text has a number of shortcomings that warrant further scrutiny if it is to be truly exhaustive.

Definition of diplomatic protection

There are two main reasons why the proposed definition appears too narrow:

(a) Diplomatic protection may be sought only where an act is attributable to a State. This raises the question of what would happen if such an act were attributable to a national of the State in question;

(b) Diplomatic protection may be sought only if the national is the victim of the wrongful act. The individual must not have contributed, by his or her own conduct, to the injury that he or she suffered. What if he or she is being prosecuted in the foreign State for an act that is against the national law of that State? Is the "clean hands" doctrine not, in that case, a substantial obstacle to the exercise of diplomatic protection? Given that it is possible for a national to be wrongly accused, the failure to exercise diplomatic protection in such a case could place the individual in a difficult position, in particular when there is no guarantee of fair and impartial justice in the State alleged to be responsible.

Concept of an internationally wrongful act

While the articles refer to internationally wrongful acts, no definition is proposed for this term. Although the Commission's articles on responsibility of States for internationally wrongful acts propose a definition, the concept should be reproduced or clarified in the articles on diplomatic protection. In this connection, it is necessary to establish the criteria or conditions under which an act is attributable

to a State in order to avoid creative interpretations both by the State that committed the wrongful act and the State that seeks to protect its national.

The articles refer only to internationally wrongful acts, which could suggest that diplomatic protection would not apply if the injury was not caused by a breach of an international obligation of the State. The scope of diplomatic protection is thus clearly restricted and should be broadened.

Right or obligation to exercise diplomatic protection

Under article 2, the exercise of diplomatic protection is presented as a right of the State. There can, therefore, be no doubt that diplomatic protection falls within the sovereignty of each State, as has been mentioned, and, more specifically, involves the exercise by the State of a form of "personal" jurisdiction. On that basis, it is undeniable that the exercise of diplomatic protection is a "right" of the State.

However, should it not also be an "obligation" of the State to guarantee diplomatic protection to its nationals and, by extension, their right to seek it?

The legal construct of diplomatic protection is such that the State of nationality of the injured person is never obliged to extend its protection to that person. It is for the State to decide whether it is appropriate to exercise its protection on the basis of its political interest at the time. To support this position, it has been argued that, when a State of nationality exercises diplomatic protection, it is defending its own interest more than that of the person directly injured by the act of another State. This explains the requirement for prior exhaustion of local remedies.

Nevertheless, it must be recognized that the fundamental principle of diplomatic protection, as expounded by the Swiss jurist Emmerich de Vattel in 1758, was that it was more of an obligation than a right. He stated that "whoever ill-treats a citizen indirectly injures the State, which must protect that citizen". In that regard, the recognition of diplomatic protection as a citizen's right and an obligation of the State is a question of logic and common sense and is supported by recent developments in international law. Today, sovereignty is seen as a question of responsibility and is no longer considered a right that is exercised purely on a discretionary basis. Accordingly, at the high-level plenary meeting of the sixtieth session of the General Assembly, the principle of the responsibility to protect, whereby each State must take all measures necessary to protect its citizens from violations of their fundamental rights, was recognized.

On the basis of these comments, it would be fitting, in the proposed draft United Nations convention on diplomatic protection, to introduce a change by allowing citizens to demand protection from their State, before international courts if necessary, if the State fails to exercise it.

Concept of predominant nationality

Article 7 provides that, in the case of multiple nationality, diplomatic protection may be exercised only if the nationality of the State making the claim is predominant over the nationality of the State responsible for an internationally wrongful act. However, the article does not specify the meaning of "predominant nationality".

What are the criteria for determining predominant nationality? That question requires an answer.

Multiple nationality and claims against a State of nationality

The principle laid down in article 7 is that diplomatic protection may not be exercised if the victim is a national of both the State alleged to be responsible for the wrongful act and the State intending to exercise diplomatic protection. Without prejudice to the comments made above under the concept of predominant nationality, Togo has some reservations regarding that provision.

As it stands, the provision could constitute a significant impediment to the exercise of diplomatic protection, and the single exception allowed does nothing to resolve the problem. Togo is of the view that it would be appropriate to decide on a case-by-case basis whether diplomatic protection should be precluded. Such matters cannot be decided in advance and should be considered by international judicial bodies, if necessary. Doing so would prevent declarations of inadmissibility from being issued on the basis of the article.

Moreover, given that diplomatic protection is a necessity, it would be best if article 7 established that the exercise of protection in the case of multiple nationality was the rule and that the preclusion of protection was the exception.

This position is supported by a careful examination of article 15, in that a number of factors may lead to deviation from the principle set out in article 7.

Protection of shareholders in a corporation in the case of an injury to the corporation

While the principle of prioritizing the State of nationality of the corporation over the State of nationality of the shareholders with regard to the right to exercise diplomatic protection is justified, it must be noted that the exceptions provided for are insufficient. What would happen if the State of nationality of the corporation, for political or other reasons, did not deem it necessary to exercise diplomatic protection? The International Court of Justice, in its judgment of 5 February 1970 in the *Barcelona Traction* case,⁹ was inflexible on this point. It ruled that the claim brought by the State of nationality of the shareholders (Belgium) was inadmissible, given that the State of nationality of the corporation (Canada) had decided not to exercise diplomatic protection. However, the International Law Commission should aim for progressive development in this area, especially because the situation of shareholders in such cases may be truly regrettable. Even if the injury is suffered by the corporation, it can be difficult in some cases to distinguish the injury to the corporation from the injury to the shareholders in that corporation.

Exhaustion of local remedies rule

While the rule that local remedies must be exhausted before diplomatic protection may be exercised ensures respect for the sovereignty of the State alleged to be responsible, the possibility of cases arising in which it is difficult to draw a distinction between injury to the national and direct injury to the State of nationality should not be ignored. It would therefore be advisable to include a paragraph clarifying the legal regime applicable in that eventuality. Furthermore, there are many other circumstances in which this rule could not be applied but that are not mentioned in this article.

⁹ Case concerning the *Barcelona Traction, Light and Power Company Limited (Belgium v. Spain)*, Second Phase, Judgments, I.C.J. Reports 1970.

It is generally agreed that local remedies need not be exhausted when injury has been caused by transboundary environmental harm (as when radioactive fallout from the explosion at the Chernobyl nuclear plant was felt in Scandinavia) or from the shooting down of an aircraft that has accidentally strayed into a State's airspace (as occurred when Bulgaria shot down an El-Al flight that had accidentally entered its airspace).

Conclusion

The articles examined above represent the hope of contemporary international law for a tool to further peace between nations, which is essential for development. However, there is a need for boldness. In particular, diplomatic protection should be made into a tool to benefit individuals. The aim should be to establish diplomatic immunity as a universal human right, while taking into account the fact that this is a very sensitive issue that must be managed with a great deal of wisdom and prudence, given that it has an impact on State sovereignty.

Subject to the comments above, Togo finds that the articles have contemporary relevance.

**General Assembly**Distr.: General
20 June 2016

Original: English

Seventy-first session
Item 105 of the preliminary list*
Crime prevention and criminal justice

**Follow-up to the Thirteenth United Nations Congress on
Crime Prevention and Criminal Justice and preparations
for the Fourteenth United Nations Congress on Crime
Prevention and Criminal Justice**

Report of the Secretary-General

Summary

The present report has been prepared pursuant to General Assembly resolution 70/174 and contains information on action taken to implement that resolution. In particular, the report provides a brief overview of follow-up to the Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation, as adopted at the high-level segment of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, held in Doha from 12 to 19 April 2015, and endorsed by the Assembly in its resolution 70/174. The report also includes information on the preparations for the Fourteenth United Nations Congress on Crime Prevention and Criminal Justice, on action taken by Member States to implement the Doha Declaration and on their proposals for ways and means of improving the efficiency of the process of preparing for and conducting the United Nations congresses on crime prevention and criminal justice.

* A/71/50.



I. Introduction

1. The Thirteenth United Nations Congress on Crime Prevention and Criminal Justice was held in Doha from 12 to 19 April 2015. The main theme of the Congress, which was attended by an unprecedented number of participants, was "Integrating crime prevention and criminal justice into the wider United Nations agenda to address social and economic challenges and to promote the rule of law at the national and international levels, and public participation".
2. In its resolution 70/174, entitled "Thirteenth United Nations Congress on Crime Prevention and Criminal Justice", the General Assembly endorsed the Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation, as adopted at the high-level segment of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, and as approved by the Commission on Crime Prevention and Criminal Justice at its twenty-fourth session and subsequently by the Economic and Social Council in its resolution 2015/19.
3. Pursuant to General Assembly resolution 70/174, the Secretariat has distributed the report of the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice (A/CONF.222/17), including the Doha Declaration, to Member States, intergovernmental organizations and non-governmental organizations, so as to ensure that its recommendations are disseminated as widely as possible.

II. Follow-up to the Thirteenth Congress on Crime Prevention and Criminal Justice and preparations for the Fourteenth United Nations Congress on Crime Prevention and Criminal Justice

4. In its resolution 70/174, the General Assembly invited Member States to take into consideration the Doha Declaration adopted by the Thirteenth Congress when formulating legislation and policy directives and to make every effort, where appropriate, to implement the principles contained therein in conformity with the purposes and principles of the Charter of the United Nations. The Assembly also invited Member States to identify areas covered in the Doha Declaration where further tools and training manuals based on international standards and best practices were needed, and to submit that information to the Commission on Crime Prevention and Criminal Justice so that it could take that information into account when considering potential areas of future activity of the United Nations Office on Drugs and Crime (UNODC).
5. At the twenty-fifth session of the Commission on Crime Prevention and Criminal Justice, held in Vienna from 23 to 27 May 2016, Member States informed the Commission about concrete action taken by their authorities to implement the Doha Declaration and the principles contained therein, and made proposals for the early planning and for the substantive preparations for the Fourteenth United Nations Congress on Crime Prevention and Criminal Justice (see E/2016/30-E/CN.15/2016/13).

6. In its resolution 70/174, the General Assembly requested the Secretary-General to seek proposals by Member States for ways and means of ensuring appropriate follow-up to the Doha Declaration, for consideration and action by the Commission on Crime Prevention and Criminal Justice at its twenty-fifth session. Member States provided the corresponding proposals to the Commission at that session (see E/CN.15/2016/11).

7. In discharging its mandated function as the preparatory body of the congresses, the Commission on Crime Prevention and Criminal Justice, at its twenty-fifth session, discussed the need for planning in advance and allocating sufficient time for the early organizational and substantive preparations for the Fourteenth United Nations Congress on Crime Prevention and Criminal Justice, to be undertaken in close coordination with all parties involved, as well as the need to decide on the theme, the agenda items and the workshop topics at the Commission's next session. In exploring ways and means to improve the efficiency of the quinquennial crime congresses as pillars of the leadership role of the United Nations in the field of crime prevention and criminal justice at the international level, several speakers made reference to the recommendations made by the Intergovernmental Group of Experts on Lessons Learned from United Nations Congresses on Crime Prevention and Criminal Justice at its meeting held in Bangkok from 15 to 18 August 2006 (see E/CN.15/2007/6), and noted with appreciation the methodological approach taken in the preparations for the Thirteenth Congress, which was based on the delineation of three distinct but logically interrelated phases of the congresses (preparation; conduct and structure; and outcome of the congresses and follow-up thereto). Many speakers also expressed support for continuing the practice of using a predictable and transparent process to finalize the negotiations on the outcome document in Vienna prior to the Congress, and for adopting it as part of the high-level segment at the opening of the Congress. The importance of maintaining the momentum of the Thirteenth Congress was emphasized. It was noted that the theme of the Fourteenth Congress could be the implementation of the 2030 Agenda for Sustainable Development. In this regard, education, international cooperation, promoting a culture of lawfulness and public participation were noted as issues that could be given prominence at the Fourteenth Congress.

8. As a result of the deliberations at its twenty-fifth session, the Commission on Crime Prevention and Criminal Justice recommended to the Economic and Social Council the approval of a draft resolution for adoption by the General Assembly on the follow-up to the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice and preparations for the Fourteenth United Nations Congress on Crime Prevention and Criminal Justice (E/2016/30-E/CN.15/2016/13, chap. A, draft resolution). In that resolution, the Assembly would invite Member States to provide their suggestions in relation to the overall theme, the agenda items and the topics for the workshops of the Fourteenth Congress, and request the Secretary-General to include those suggestions in the report on the follow-up to the Thirteenth Congress and preparations for the Fourteenth Congress to be submitted to the Commission at its twenty-sixth session. The Assembly would also recommend that, building on the experience and the success of the Thirteenth Congress, all efforts be made to ensure that the overall theme and the agenda items and workshop topics of the Fourteenth Congress are interrelated and that the agenda items and workshop topics are streamlined and limited in number, and would encourage the holding of side

events that are focused on and complement the agenda items and workshops. The Assembly would further request the Commission to approve at its twenty-sixth session the overall theme, the agenda items and the topics for the workshops of the Fourteenth Congress.

9. In the same resolution, the General Assembly would welcome the initiative of the Government of Qatar to work with UNODC in ensuring appropriate follow-up to the implementation of the Doha Declaration, and would also welcome the funding agreement signed on 27 November 2015 between the Government of Qatar and the Office. At the twenty-fifth session of the Commission on Crime Prevention and Criminal Justice, under the standing agenda item on the Congress, all speakers expressed gratitude to the Government of Qatar for successfully hosting the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice and for facilitating appropriate follow-up to, and implementation of, the Doha Declaration. In this connection, several speakers noted the important role played by UNODC in supporting Member States in the fulfilment of their commitments in line with the Doha Declaration.

10. In its resolution 70/174, the General Assembly welcomed with appreciation the offer of the Government of Japan to act as host to the Fourteenth United Nations Congress on Crime Prevention and Criminal Justice, to be held in 2020.
